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Court : Karnataka

Decided On : Feb-20-1996

Reported in : AIR1996Kant256; ILR1996KAR1271; 1996(2)KarLJ74

Judge : P. Krishna Moorthy, J.

Acts : Code of Civil Procedure (CPC), 1908 - Sections 151 - Order 39, Rule 2A

Appeal No. : Civil Revision Petition No. 115 of 1996

Appellant : Papanna

Respondent : Nagachari and Others

Advocate for Def. : G.A. Vishwanatha Reddy, Adv.

Advocate for Pet/Ap. : G.B. Manjunath, Adv.

Judgement :
ORDER

1. I heard the learned counsel for the respondent also.

2. This is a defendant's revision against the order of the trial Court granting police protection to the plaintiff to enforce the order of temporary injunction passed by the trial Court.

3. The suit was filed for a permanent injunction and along with the suit, plaintiff also filed an application for temporary injunction, which after contest, was granted by the trial Court on 3-7-1992. The defendant filed M.A. No. 95/92 against the above order. It was also dismissed on 20-11-1993.

4. Thereafter, alleging that the defendant is taking law into his own hands and attempting to interfere with the possession of the plaintiff to the property, plaintiff lodged a complaint before the concerned police. But, the police failed to take any action against them and it is alleged that the defendant may dispossess the plaintiff at any time from the suit property. Accordingly, he filed an application under S. 151, C.P.C. for an order from the Court directing the police to give protection to the plaintiff.

5. The defendant filed objections, contending that the police help cannot be ordered to implement the orders of injunction and if there is any violation, the proper remedy of the plaintiff is to move the Court under O. 39, R. 2A and Court has no jurisdiction to order police protection. The defendant's objection was overruled and the trial Court passed an order directing the P.S.I. Anekal to assist the plaintiff in implementing and enforcing the orders passed by that Court on I.A.I. application for temporary injunction. The defendant has challenged the same.

6. The counsel for the revision-petitioner contended that though there is an order of temporary injunction against him, in fact, he is in possession of the same and even if there is any violation of order of temporary injunction, the proper remedy of the plaintiff is to move the Court under Order 39, Rule 2A and that the Court has no jurisdiction to order police protection in such circumstances. I am not inclined to accept both the contentions.

7. It is to be noted that the order oftemporary injunction was confirmed by, thetrial Court after hearing the defendant andconsidering his objections by its order dated3-7-1992. Defendant, dissatisfied with theabove order, filed an appeal before the Addl.Civil Judge, which was also dismissed on 20-11-1993 on a consideration of the entirematter. It does not lie in the mouth of thedefendant to contend that he is still inpossession of the property and that the orderof injunction cannot be given effect to. Whenthe Court has prima facie considered thematter and has granted a

temporary injunction in favour of the plaintiff after hearing thedefendant, the Court has to enforce the sameand the contention of the defendant that he isin possession, cannot be accepted at thisstage.

8. The second ground raised by the counsel for the revision-petitioner is also equally untenable. The mere fact that there is provision under Order 39, Rule 2 A for taking action for disobedience of an order of temporary injunction, does not prevent the Court from taking steps to see that its orders are implemented. If the Court had no power to implement its own orders, then there is no purpose in the Courts passing orders in matters coming before them. The remedy under. Order 39, Rule 2A is not exhaustive and Court can pass appropriate orders to see that its orders are enforced. In necessary cases, even the police can be directed to enforce the orders of the Court. In this case that alone has been done by the trial Court and I do not find any error of jurisdiction warranting interference under Section 115 of C.P.C.

9. Accordingly, I dismiss the civil revision petition, the trial Court may expedite the disposal of the suit.

10. Petition dismissed.

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